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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )

)  
Amendment of Section 73.622(b), )  
Table of Allotments, )  
Digital Television Broadcast Stations )  
(Norwich, Connecticut) )

MM Docket No. 04-184  
RM-10968

**RECEIVED**

To: Marlene Dortch, Secretary  
Federal Communications Commission  
ATTN: Chief, Video Division

JUL 14 2004

Federal Communications Commission  
Office of Secretary

**REPLY COMMENTS**

These reply comments are filed on behalf of Connecticut Public Broadcasting, Inc. ("CPBI"), licensee of noncommercial educational Station WEDN(TV), NTSC Channel \*53/Digital Channel \*45, Norwich, Connecticut. CPBI is the proponent of the proposal set forth in the above-captioned Notice of Proposed Rule Making to substitute DTV Channel \*9c for its assigned DTV Channel \*45.

This reply addresses the arguments made in the "Comments of Hearst-Argyle Properties, Inc. (Hearst)" (Comments) filed in this proceeding on July 6, 2004. Hearst is the licensee of Station WMUR-TV, Manchester, New Hampshire, NTSC Channel 9 and DTV Channel 59. Hearst has urged the Commission to reject CPBI's proposal as violative of the two percent *de minimis* standard specified in Section 73.623(c)(2) of the Commission's rules. Hearst also asks for rejection on the basis that WMUR would be "unfairly" contained in its eventual operation of a digital channel 9 at Manchester. Finally,

would be caused to numerous WMUR viewers" (Comments, page 1). CPBI has carefully reviewed Hearst's objections and urges the Bureau to determine that they are entirely unsupported and without merit. The Bureau should promptly order the change in the DTV Table of Allotments to change the Norwich, Connecticut DTV channel from 45 to 9, as proposed by CPBI.<sup>1</sup>

Compliance with Section 73.623(c). Hearst first states that the CPBI proposal for modification of Station WEDN's digital channel violates the two percent *de minimis* standard governing DTV channel changes. Hearst bases this on the calculations of its attorneys, utilizing the number of persons predicted to receive interference (as calculated by CPBI's consulting engineer) and the "baseline population" for Station WMUR-TV from the Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, Appendix B, 13 FCC Rcd 7418, 7665 (1998).

Hearst's attorneys have utilized the incorrect baseline population number for Station WMUR-TV. As stated in the accompanying Technical Exhibit of CPBI's consulting

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<sup>1</sup>CPBI notes that it has pending applications to exchange DTV Channel \*45 at Norwich for the digital channel assigned to CPBI's Hartford station, in applications submitted pursuant to Sections 73.622(c) and 73.623(g) of the Commission's rules (FCC File Nos. BMPEDT-20031008AAT and BPEDT 19990113KG, as amended on October 8, 2003 and as further amended on March 18, 2004). Those applications were submitted to initiate digital television service in Hartford on DTV Channel \*45, and continuation of service (albeit at lower power) on DTV Channel \*32 at Norwich. CPBI would implement those facilities as proposed, but submits that the proposal for Channel \*9 at Norwich is superior to either DTV Channel \*45, the present allotment, or DTV Channel \*32, the allotment which would be substituted at Norwich in the event that the channel "swap" applications are approved and implemented. If required following implementation of the channel "swap" proposed in those applications, CPBI would supplement the instant rulemaking record with the comparisons of \*9 to \*32 as appropriate.

engineers, the initial Technical Statement which accompanied the Petition for Rulemaking which initiated this proceeding correctly relied upon the Commission's guidance as contained in the Public Notice "Additional Application Processing Guidelines for Digital Television (DTV)," released August 10, 1998. CPBI's consulting engineers confirm that the calculated interference from the WEDN-DT proposal to WMUR-TV service represents 1.86% of the WMUR-TV service population and complies with the FCC's 2% interference standard.

Hearst's plans for future digital operations of WMUR-TV are not relevant to this proceeding. Hearst recites that its current DTV channel for Station WMUR-TV is out-of-core Channel 59, and as such it will be required ultimately to revert to its current analog Channel 9 at the end of the DTV transition. Hearst complains that the WEDN-DT proposal of CPBI would preclude it from fully maximizing its eventual DTV operation on Channel 9. Hearst accordingly urges denial of CPBI's proposal, or deferral until the channel election issues pending before the Commission in MB Docket No. 03-15 have been resolved. Hearst supports this argument with an Engineering Statement containing numerous technical scenarios to show interference to a hypothetical digital operation on Channel 9 in Manchester.

The Bureau has previously concluded that hypothetical cumulative interference to an eventual "in-core" DTV channel should not be considered where a proposal otherwise complies with the technical rules, Report and Order in MM Docket 01-208 (Harrisburg, Pennsylvania), 17 FCC Rcd 22673, fn. 1 (2002). As stated previously, and as supported by the attached Technical Statement, CPBI's proposal complies with all technical rules

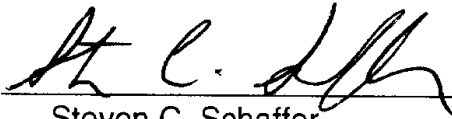
governing DTV channel changes. Accordingly, Hearst's arguments of harm to hypothetical future operations should be rejected.

Interference Caused to WMUR Viewers. Hearst finally argues, notwithstanding CPBI's compliance with the 2% *de minimis* standard, that the interference predicted to 91,949 persons within the WMUR-TV analog service area is a basis for denial of the FCC's proposal to change CPBI's Norwich DTV channel. While it is argued that this would "harm the ability of significant populations to receive WMUR's local and national programming", no showing has been made that even a single person receives that programming over the air and would have actual interference. In fact, the odds are that in excess of 88% of the population within the affected area receive Station WMUR-TV's signal through cable or direct broadcast satellite. Tenth Annual Report - Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, 19 FCC Rcd 1606, 1609 (2004). The showings submitted by CPBI in support of its proposal comply with all FCC rules. Hearst merely asserts, without technical basis, that it has viewers would be harmed, and further asserts, without legal basis, that this harm presents a basis for rejection of the Bureau's proposal for the change of CPBI's DTV channel in Norwich. Hearst's arguments should be rejected, and the change proposed should be promptly granted as compliant with FCC rules and for the reasons previously submitted by CPBI that demonstrate the change would advance the digital transition and the public interest.

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Respectfully submitted,

CONNECTICUT PUBLIC BROADCASTING, INC.

By:   
Steven C. Schaffer  
[schaffer@swmlaw.com](mailto:schaffer@swmlaw.com)

SCHWARTZ, WOODS & MILLER  
1350 Connecticut Avenue, N.W.  
Suite 300  
Washington, D.C. 20036-1717

Telephone: 202-833-1700  
Facsimile: 202-833-2351

Its Attorneys

July 14, 2004

TECHNICAL EXHIBIT  
SUPPORTING REPLY COMMENTS FROM  
CONNECTICUT PUBLIC BROADCASTING, INC.  
WITH REGARD TO  
MB DOCKET NO. 04-184  
WEDN-DT, NORWICH, CT

Technical Narrative

This Technical Exhibit supports reply comments from Connecticut Public Broadcasting, Inc. (CPBI) with regard to the Federal Communications Commission (FCC) Notice of Proposed Rule Making (NPRM) in MB Docket No. 04-184 (RM-10968). The NPRM concerns a proposal to change the digital television (DTV) allotment channel for CPBI's station WEDN at Norwich, Connecticut from channel \*45 to channel \*9. The CPBI reply comments are in response to the comments filed by Hearst-Argyle Properties, Inc., licensee of station WMUR-TV on channel 9 at Manchester, New Hampshire.

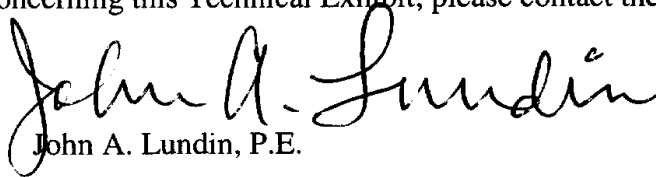
Station WEDN-DT proposes to use channel 9 for its DTV operation at Norwich, Connecticut. It proposes a non-directional (ND) antenna system with an effective radiated power (ERP) of 6 kilowatts (kW). The proposed antenna height above average terrain (HAAT) is 192 meters. The proposed site coordinates are 41-31-14, 72-10-03 (NAD-27).

According to the FCC's database, station WMUR-TV is licensed for its analog (NTSC) operation on channel 9 at Manchester, New Hampshire. A non-directional antenna system is employed with a visual ERP of 282 kW. The antenna HAAT is 314 meters and the site coordinates are 42-58-59, 71-35-19 (NAD-27).

The legal portion of the WMUR-TV comments claims that the WEDN-DT proposal will exceed the FCC's 2% "de minimis" interference standard. It is noted that the engineering statement attached to the WMUR-TV comments do not support this allegation.

The legal portion of the WMUR-TV comments claim that the WMUR-TV baseline population is 4,332,000 people as noted in Appendix B attached to the FCC's Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders in MM Docket No.87-268. Using this population figure for the WMUR-TV baseline (4,332,000 people), it claims the proposed WEDN-DT calculated interference to WMUR-TV service (91,949 people) represents 2.13% of the WMUR-TV service population and exceeds the FCC's 2% standard. The population figure the WMUR-TV legal statement refers to represents the people within the WMUR-TV Grade B contour where the signal is high enough to overcome noise and interference from other analog (NTSC) stations. This explanation is corroborated on page 5 of the FCC's public notice concerning "Additional Application Processing Guidelines for Digital Television (DTV)", released August 10, 1998. The proper baseline population to use in the OET-69 calculations for an analog (NTSC) station such as WMUR-TV is the population within the Grade B contour without consideration of interference. This correct baseline population was used in the Technical Statement supporting CPBI's Petition for Rule Making (Figure 3, Sheet 2). Using the FCC's OET-69 methodology (with 2 km grid), the WMUR-TV baseline population is 4,956,255 people. The calculated interference from the WEDN-DT proposal to WMUR-TV service is 91,949 people, which represents 1.86% of the WMUR-TV service population and complies with the FCC's 2% interference standard.

If there are questions concerning this Technical Exhibit, please contact the office of the undersigned.



John A. Lundin, P.E.

FL Registration No. 46454  
DC Registration No. 7499

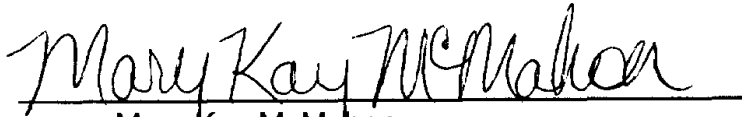
du Treil, Lundin & Rackley, Inc.  
201 Fletcher Avenue  
Sarasota, Florida 34237  
(941) 329-6000 voice  
(941) 329-6030 fax  
john@DLR.com e-mail

July 13, 2004

## CERTIFICATE OF SERVICE

I, Mary Kay McMahon, Secretary in the law offices of Schwartz, Woods & Miller, do hereby certify that I have on this 14<sup>th</sup> day of July, 2004, sent by First Class United States mail, postage prepaid, copies of the foregoing **REPLY COMMENTS** to

Mark J. Prak  
David Kushner  
Coe W. Ramsey  
Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.  
Wachovia Capitol Center, Suite 1600  
150 Fayetteville Street Mall (27601)  
Post Office Box 1800  
Raleigh, NC 27602

  
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Mary Kay McMahon